



HF 263 – Domestic Abuse Assault (LSB1398YH.1)

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Fiscal Note Version – As Amended and Passed by the House

Description

[House File 263](#) relates to domestic abuse and sentencing for third or subsequent offense domestic abuse assault, stalking, and the unauthorized placement of a global positioning device.

Background

This Bill expands the definition of course of conduct in relation to stalking to include situations in which a technological device is repeatedly used to locate, listen to, or watch a person without a legitimate purpose. The Bill also states that someone commits stalking when the person:

- Engages in a course of conduct that would cause a reasonable person to feel terrorized, frightened, intimidated, or threatened.
- Engages in a course of conduct that would cause a reasonable person to fear bodily injury or death of that person or a member of the person's immediate family.
- Have knowledge or should have knowledge that a reasonable person would feel terrorized, frightened, intimidated, threatened, or have fear of bodily injury or death to that person or a member of the person's immediate family.

This Bill eliminates a current element of stalking requiring the offender's course of conduct to actually induce fear in the victim of bodily injury to, or death of, the victim or the victim's family members. It also makes it a crime to place a global positioning device with the intent to intimidate, annoy, or alarm another person without the consent of that person. This act would be considered a serious misdemeanor punishable by confinement for no more than one year and a fine of at least \$315 and not more than \$1,875.

Under this Bill, if an offender is convicted of a third or subsequent domestic abuse assault, the offender is required to serve at least one-fifth of the maximum term, establishing a 20.0% mandatory minimum sentence. A person who commits a third or subsequent domestic abuse assault commits a Class D felony that is punishable by a fine of at least \$750 but no more than \$7,500 and imprisonment not to exceed five years. Currently, the actual average Length of Stay (LOS) for a domestic abuse assault third Class D felony is 17.1 months. The mandatory minimum sentence contained within this Bill would increase that LOS to 36 months because the LOS is calculated at a midpoint between the earliest parole eligibility date and sentence expiration.

Under current law, an offender serving a violent repeat offender sentence is eligible for a reduction of sentence equal to 1.2 days for each day the inmate serves under good conduct. Under this Bill, an offender serving a sentence for a third or subsequent offense of domestic abuse assault would only be eligible for a reduction of sentence equal to fifteen eighty-fifths (0.18) days for each day the inmate serves under good conduct. This is the same rate of reduction of a sentence for an offender serving a minimum 70.0% sentence under Iowa Code section [902.12](#). Additionally, in order to be eligible for a reduction of sentence, the offender needs to have completed a domestic abuse treatment program if the offender is required to participate in one.

Under this Bill, the Board of Parole (BOP) is required to develop a risk assessment validated for domestic abuse-related offenses in consultation with the Department of Corrections (DOC). This risk assessment would be used by the BOP when determining the appropriate conditions for release. Another provision of this Bill is that a person placed on probation, parole, work release, or any other type of conditional release for domestic abuse assault may be supervised in a program that includes the use of an electronic tracking and monitoring system.

Assumptions

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends; prisoner LOS; revocation rates; plea bargaining; and other criminal justice system policies and practices.
- A lag effect of six months is assumed from the effective date of this Bill to the date of first entry of affected offenders into the correctional system.
- Marginal costs for county jails cannot be estimated due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be \$15 per day.
- There would be no additional convictions for domestic abuse assault. The Bill would result in a longer LOS for offenders convicted of a third or subsequent offense of domestic abuse assault.
- There would be no Class C felony convictions for stalking based upon historical data.
- 50.0% of stalking charges under Iowa Code section [708.11](#) that were dismissed in FY 2016 would become convictions under this Bill.
- Offenders will be charged for costs of an electronic tracking and monitoring system.

Impacts

Correctional Impact

This Bill is expected to result in an additional 21 convictions annually. It is estimated that there would be an additional 19 admissions to prison, an additional 11 admissions to jail, an additional placement of one offender to a residential treatment program, and an additional 16 offenders placed on probation annually. By year four, the prison population would have increased to an additional 84 offenders due in part to the increased LOS for those under a mandatory minimum sentence. **Table 1** below shows estimates for sentencing to State prison, parole, probation, or Community-Based Corrections (CBC) residential facilities; LOS under those supervisions; and supervision marginal costs per day for all convictions of Class C and Class D felonies and aggravated misdemeanors involving persons crimes. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Correctional Impact Memo](#), dated January 30, 2017, for information related to the correctional system.

Table 1 – Sentencing Estimates and LOS

	Percent to Prison	Avg LOS Prison (months)	FY 16 Marginal Cost/Day Prison	Avg LOS Parole (months)	Percent to Probation	Avg LOS Probation (months)	FY 16 Avg Cost/Day Parole & Probation	Percent to CBC	FY 16 Marginal Cost/Day CBC	Percent to County Jail	Avg LOS County Jail (days)	Marginal Cost/Day Jail
Class C Felony (Persons)	92.0%	38.2	\$18.51	19.8	29.0%	34.6	\$4.59	4.0%	\$10.28	42.0%	N/A	\$15.00
Class D Felony (Persons)	79.0%	16.6	\$18.51	10.5	52.0%	31.9	\$4.59	7.0%	\$10.28	33.0%	N/A	\$15.00
Aggravated Misd (Persons)	47.0%	8.7	\$18.51	6.5	71.0%	20.1	\$4.59	4.0%	\$10.28	56.0%	37	\$15.00

Minority Impact

This Bill would have a minority impact to the African-American community. In FY 2016, 21.0% of the persons convicted of domestic abuse and stalking were African American. The U.S. Census estimate as of July 1, 2015, states that the Iowa population was 3.5% African American. In the second year of enactment, there would be four more admissions to prison, two more admissions to jail, and three more placements to probation of African Americans. After the third

year of enactment, there would be an increase of 10 African Americans in the prison population due to these additional convictions and the change in mandatory sentencing for third or subsequent convictions of domestic abuse assault. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Memo](#), dated January 30, 2017, for information related to minorities in the criminal justice system.

Fiscal Impact

Under this Bill, it is estimated there would be no additional domestic stalking (Felony C) convictions based upon past sentencing patterns. There would be:

- An estimated seven additional Class D felony convictions in FY 2018, and 14 additional Class D felony convictions in FY 2019. Of these, 79.0% would be sentenced to prison.
- An estimated four additional aggravated misdemeanor convictions in FY 2018, and seven additional aggravated misdemeanor convictions in FY 2019. Of these, 47.0% would be sentenced to prison.

Table 2 – Estimated Costs for Additional Convictions

Offense	Cost Range	Net Additional Convictions		Cost Increase Estimate	
		FY 2018	FY 2019	FY 2018	FY 2019
Class C Felony	\$7,500-\$18,600	0	0	\$0	\$0
Class D Felony	\$6,300-\$12,300	7	14	\$77,280	\$154,560
Aggravated Misd	\$3,100 - \$7,000	4	7	\$19,732	\$34,531
Total		11	21	\$97,012	\$189,091

Additionally, if the BOP was required to develop a new risk assessment protocol and have it validated, the cost would be between \$80,000 and \$100,000. The current risk assessment used by the DOC may be sufficient to implement the requirements of this Bill.

Sources

Department of Human Rights, Division of Criminal and Juvenile Justice Planning
 Department of Corrections
 Office of the State Court Administrator
 Office of the State Public Defender
 Board of Parole

/s/ Holly M. Lyons

April 6, 2017

The fiscal note for this Bill was prepared pursuant to Joint Rule 17 and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
